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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FEB 11 1993

In the Matter of)

Implementation of Sections of)
the Cable Television Consumer)
Protection and Competition)
Act of 1992)

Rate Regulation)
_____)

MN Docket No. 92-266

TO: The Commission

COMMENTS OF THE RAMSEY/WASHINGTON COUNTIES SUBURBAN CABLE COMMUNICATIONS COMMISSION ("RWSCCC"), hereby submits these reply comments in the above-captioned proceeding. The Federal Communications Commission ("FCC" or "Commission") seeks comments on proposed rules to implement Sections 623, 612, and 622(c) of the Communications Act of 1934, as amended by Sections 3, 9, and 14 of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act").

RWSCCC strongly supports comments filed by the National Association of Telecommunications Officers and Advisors, the National League of Cities, the United States Conference of Mayors, and the National Association of Counties (collectively, the "Local Governments") in this proceeding. RWSCCC agrees with the Local Governments that the main goal of the Commission in implementing the above provisions in the 1992 Cable Act is to ensure that "consumer interests are protected in the receipt of cable

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service." Section 2(b)(4), 1992 Cable Act. The Commission should adopt regulations implementing Sections 623, 612, and 622(c) that enable Local Governments to work cooperatively with the Commission to ensure that cable subscribers receive the protections intended by the 1992 Cable Act. Such regulations should "seek to reduce the administrative burdens on subscribers, cable operators, franchising authorities, and the Commission." Section 623(b)(2)(A).

Among other comments and proposals by the Local Governments, RWCSCC supports the following comments or proposals:

1. Current cable rates must be reduced if necessary to ensure that they are "reasonable," as required by Section 623.

2. The Commission should permit local governments flexibility in establishing procedures and regulations for reviewing local basic cable rates, so long as such procedures and regulations are not irreconcilable with the certification requirements in Section 623(a)(3).

3. Section 623(b)(1) authorizes the Commission to regulate basic cable rates in franchise areas that are not certified to regulate rates. At a minimum, the Commission should regulate rates in situations where a franchising authority requests the Commission to regulate rates.

4. In order to reduce administrative burdens on the Commission, the Commission should permit franchising authorities to initially review complaints that the rates for cable programming services are unreasonable under Section 623(c).

5. Given Congress' presumption that most cable operators are not subject to effective competition, the burden should be on cable operators to demonstrate that they are subject to effective competition. Franchising authorities should not bear the burden of demonstrating that cable operators are not subject to effective competition as a condition of certification to regulate rates.

6. Section 623 preempts any state law that prohibits cable rate regulation, and franchising authorities may certify that they have the "legal authority" to regulate rates pursuant to home rule charters, their police powers, their right to regulate rights-of-way, or any other state or local provision which grants a franchising authority the right to regulate a cable system. In addition, Section 623(a)(2)(A) provides franchising authorities an independent source of power to regulate rates, regardless of any contrary state law provision. A franchising authority's right to regulate rates under Section 623 also includes the right to order rate reductions if necessary to ensure that a cable operator receives only a "reasonable" rate for basic cable service.

7. The Commission should establish a "benchmark," rather than a "cost-of-service," model for regulating the rates for basic cable service and cable programming services. Such a method of regulation is consistent with Congress' desire that the Commission create a formula that is uncomplicated to implement, administer, and enforce.

8. The rate for any installation and equipment used to receive basic cable service, regardless of whether such installation or equipment is also used to receive any other

programming service, should be based on "actual cost" pursuant to Section 623(b)(3) -- thus subject to regulation by certified franchising authorities. Congress did not intend that such rates be subject to regulation by the Commission pursuant to Section 623(c).

9. RWCSCCC agrees with the Commission's conclusion that certification should be pursuant to a standardized and simple certification form similar to that located at Appendix D to the Notice of Proposed Rulemaking, but such form should be modified to eliminate the burden on local governments to demonstrate that a cable operator is not subject to effective competition.

10. The Commission's rules implementing the subscriber bill itemization provision, Section 622(c), should allow a cable operator to itemize only direct costs attributable to franchise fees, PEG requirements or other assessments, and should require a cable operator that chooses to itemize costs to disclose other costs to the public reflected in the bill, such as a cable operator's profit, payments on a cable operator's debt service, or any other items a franchising authority believes are appropriate to itemize in order to accurately reflect the costs in a subscriber's bill. In calculating franchise costs pursuant to Section 623(b)(4) that a cable operator may itemize on his bill pursuant to Section 622(c), the Commission should make clear that such franchise costs are limited only to costs directly attributable to public, educational, and governmental access requirements in a franchise.

11. The Commission should permit franchising authorities that wish to do so to mediate leased access disputes, and to enforce the Commission's leased access rules. Such local enforcement would be in addition to the right of franchising authorities to enforce provisions in franchise agreements regarding the placement and use of leased access channels.

RWCSCCC urges the Commission to adopt the above proposals and the other proposals raised in the Local Governments' comments.

Respectfully submitted,

A handwritten signature in cursive script, reading "Duane Bengtson".

Duane Bengtson
Chairman

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February 9, 1993